DEVELOPMENT AGREEMENT

CITY OF DUVALL

And

CAMWEST DEVELOPMENT, INC.

This Development Agreement ("Agreement") is entered into this \(\frac{14}{14} \) day of \(\frac{December}{2}, 2007, \) by and between CamWest Development, Inc., a Washington corporation, CamWest Duvall LLC, a Washington limited liability company, (collectively "CamWest") and the City of Duvall, a Washington municipal corporation ("City").

RECITALS

- A. CamWest owns or otherwise has an interest in certain real property located within the City of Duvall South Urban Growth Area ("UGA") consisting of nine parcels totaling approximately 50.45 acres, which are more fully described on **Exhibit A** attached to this Agreement and incorporated herein. The City owns three parcels consisting of approximately 4.94 acres within the South UGA that are more fully described on **Exhibit B** attached to this Agreement and incorporated herein. These twelve parcels total approximately 55.39 acres.
- B. On June 8, 2006 the City adopted an Annexation Plan which provided for the annexation of the South UGA, including the properties described in Paragraph A, above. The City completed the annexation of the South UGA on August 9, 2007.
- C. The City, CamWest and the Lake Washington Technical College (the "College") entered into a Memorandum of Understanding dated November 10, 2005 ("the Tri-Party Agreement"), and an Agreement Implementing Memorandum of Understanding dated July 26, 2007 ("the Implementing Agreement") which provides for multiple real estate transactions involving the properties described in Paragraph A. When the Tri-Party Agreement is fully implemented, the College will own a 10-acre parcel where it will locate its Duvall Campus and the City will own a 2-acre parcel and 2.9 acres of park(s). CamWest will own the remaining property for its proposed residential and mixed-use development. For purposes of this Agreement, these parcels are referred to as "the Camwest Property", "the City Property", and "the LWTC Property", respectively.
- D. As part of the City's 2006 comprehensive plan update process, CamWest and the City applied for comprehensive plan amendments to change the land use designations of the Property and other properties included within the Annexation Area. The City completed environmental review of these proposed amendments to the comprehensive plan. The amendments were approved by the City Council on December 14, 2006. A copy of Ordinance 1042, approving the amendments, is attached hereto as **Exhibit D** and incorporated herein. The CamWest Property was

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designated Residential 12 (R-12) on the northern portion of the Property and Commercial on the southern portion of the CamWest Property as is more fully set out in the map attached as Exhibit C to Ordinance 1042.

- E. On July 26, 2006 CamWest and other property owners filed a Notice of Intent to Annex the properties identified in Paragraph A, above, and other real property located within the South UGA (collectively the "Annexation Area") pursuant to the direct petition method. The Annexation Area consists of approximately 108 acres. The City Council passed Resolution 06-12 on September 14, 2006 accepting the Notice of Intent to Annex. A copy of Resolution 06-12 is attached hereto as Exhibit C and incorporated herein. Resolution 06-12 includes conditions of annexation that apply specifically to the properties described in Paragraph A, above, and other conditions that apply to all of the Annexation Area. Condition 3 required the execution of a preannexation agreement between CamWest and the City.
- F. On July 26, 2007 the Council approved zoning for the Annexation Area to become effective upon annexation of the Annexation Area and approved a Pre-Annexation Agreement between the City and CamWest. Exhibit E depicts the zoning on the CamWest Property upon annexation into the City. The northern portion of the CamWest Property is zoned R-12. The southern portion of the CamWest Property, the LWTC Property and City Property, are zoned Mixed-Use Institutional ("MU-I") as depicted on Exhibit E. Exhibit F is a copy of the Pre-Annexation Agreement.
- G. The Pre-Annexation Agreement provides that a number of details related to the development of the CamWest Property and the City Property be set forth in a Development Agreement between the City and CamWest.
- H. Development Agreements are authorized by RCW 36.70B.170 to establish the "development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement."
- I. The City and CamWest intend to create uniform processes and standards for development of the CamWest and City Properties. This Agreement does not apply to the LWTC and City Properties, except as specifically set forth herein and to the extent necessary to carry out the terms and conditions of the Tri-Party Agreement between the City, CamWest and the College.

Pursuant to the provisions of RCW 36.70B.170, et seq., and in consideration of the mutual promises, benefits and obligations set forth herein, the City and CamWest enter into the following Development Agreement:

GENERAL DEVELOPMENT PROVISIONS

1. Residential Development Limitation. CamWest shall be permitted to develop up to 374 dwelling units on the CamWest Property. Approximately 244 of these units will be located in the area zoned R-12 north of NE 141st Place. This quantity is based on the R-8 residential cap established in Section 3.2 of the Pre-Annexation Agreement. The balance of the residential units may be located in the portion of the CamWest Property zoned MU-I south of NE 141st Place. The

residential cap on the MU-I portion of the CamWest Property shall be the total cap of 374 units less the number of units developed on the R-12 portion. In the event that CamWest assigns its interest in a purchase and sale agreement to a related or non-related third party who closes thereon, the cap shall apply to the assignee's interest.

- 2. Non-Residential Development. In the portion of the CamWest Property zoned MU-I south of NE 141st Place, CamWest shall also be permitted to develop non-residential uses permitted in the MU-I zone district. The conceptual site plan for the MU-I zoned area assumes approximately 140,000 square feet of office, commercial, and/or retail space. The City and CamWest will determine the actual amount of commercial space to be developed as part of the binding site plan process for the area zoned MU-I after completion of the City's review of sensitive area studies, traffic studies, the park plan and other components of the proposal.
- 3. Reduction of Allowed Development in the MU-I Zone. Pursuant to Section 3.2 of the Pre-Annexation Agreement, if CamWest does not close on all of the CamWest Properties in the MU-I zone by December 31, 2009, CamWest's cap shall decrease proportionately based upon actual development capacity of each parcel after accounting for all constraints, including sensitive area, determined in accordance with the regulations in effect on the date this Development Agreement is approved, unless otherwise agreed to by the City and CamWest.
- 4. <u>Vesting</u>. Development of the CamWest Property shall be regulated by and shall occur pursuant to the provisions of the Duvall Municipal Code ("DMC"), including but not limited to the Uniform Development Regulations adopted in DMC Title 14, the Development Design Standards and the City's various impact fee rates and schedules as follows:
 - a. The CamWest Property shall be vested to those ordinances, regulations and design standards, for a period of ten years commencing on the date this Development Agreement is executed, provided building permit applications shall be vested to the building code in effect at the time of building permit application.
 - b. There shall be no vesting of permit fees, impact fees, or other fees associated with the project.
 - c. The City will not apply subsequently adopted ordinances pertaining to development regulations and design standards to development of the CamWest Property, either directly or indirectly (i.e., by imposing requirements for such compliance pursuant to the State Environmental Policy Act), provided that the City reserves the authority to impose new or different regulations to the extent required by a serious threat to public health and safety.
 - d. Notwithstanding these vesting provisions, CamWest may utilize the binding site plan process described in Section 12.

5. <u>Permitted Uses</u>. The uses permitted in the R-12 area shall be the uses set forth in DMC Chapter 14.14. The uses permitted in the MU-I area shall be the uses allowed by DMC Chapter 14.19.

6. Phasing of Development.

- a. CamWest shall submit a master development plan and phasing plan with the development permit applications for the first phase of its development.
- b. The master development plan shall identify, at a minimum, the general location of building footprints, roads, parks and recreational spaces, sensitive areas and associated buffers, open space, plazas, and pedestrian elements (including trails and sidewalks). The master plan shall demonstrate that the site is being developed in an integrated and cohesive manner, and reflect existing conditions such as topography and sensitive areas, subject to the provisions of Section 6(d), below.
- c. The phasing plan shall identify, to the extent feasible, CamWest's most current plans for the phased development of the CamWest Property, including the proposed location of affordable housing. The phasing plan shall identify the anticipated areas of development in each phase, the types of uses anticipated in each phase, the internal infrastructure (internal roads, pedestrian elements, utilities, stormwater system improvements, parks and recreational spaces, and open space) which are anticipated to be necessary for each phase, and any offsite infrastructure improvements that will be necessary to support each phase.
- d. The phasing plan shall further provide that a site plan application for at least one (1) mixed use and/or commercial building shall be submitted by CamWest within five years after the approval date of the Development Agreement or within one year of the date of issuance of a certificate of occupancy for the first College building, whichever occurs first. CamWest shall commence construction of such mixed use and/or commercial building within the time period allowed by City Code after applicable permits for such building are issued. Construction of such a building shall be completed within one year of issuance of a building permit unless an extension is authorized by the City pursuant to City code.
- e. The parties acknowledge that the master development plan and phasing plan may be changed from time to time based on infrastructure availability, market conditions, sensitive areas, and other factors, many of which are beyond the control of the City and CamWest. CamWest shall be entitled to revise the master plan and phasing plan from time to time with City approval so long as the master plan and phasing plan provide for the development of parks, recreational improvements and affordable housing as set forth in this Agreement.

SEPA PROCESS

- 7. Phased SEPA Review. The City and CamWest acknowledge that many of the major components of the development of the CamWest Property are not known at this time but will be identified pursuant to the processes and standards set forth in this Agreement. Because of this uncertainty, the City and CamWest agree to conduct phased SEPA review pursuant to the provisions of WAC 197-11-060(5). The City's environmental documents shall, pursuant to WAC 197-11-060(5)(e), specifically indicate that environmental review is being phased.
- 8. Prior SEPA Review. As part of the City's 2006 comprehensive plan update process, CamWest and the City applied for comprehensive plan amendments to change the land use designations of the CamWest Property and other properties included within the Annexation Area. The City completed environmental review of these proposed amendments to the comprehensive plan. The amendments were approved by the City Council on December 14, 2006. No appeals from that environmental review occurred.
- 9. <u>SEPA Review for Phase 1 of Development</u>. CamWest's application for Phase 1 of its development of the CamWest Property shall include an environmental checklist for and any supporting studies required for Phase I of the CamWest Property and to the extent information is available, full build out of the balance of the property. In addition, CamWest shall submit the following information no later than the date of submission of the phase one application:
 - a. The master development plan and phasing plan for the development of the CamWest Property (see Section 6 for details).
 - b. A traffic report on the traffic to be generated by full buildout of the CamWest Property (see Section 16 for details), and prepared in accordance with the Comprehensive Plan.
 - c. A sewer capacity analysis for the conveyance system (sewer lines) serving the CamWest Property, assuming full buildout.
 - d. A stormwater report assuming full buildout of the CamWest Property (see Section 20 for details).
 - e. A sensitive areas report for the CamWest Property and the City Property (see Section 18 for details).
 - f. Any other studies or reports required by DMC Chapter. 14.08.

For purposes of these studies, "full buildout" shall assume the levels of development specified in Section 16(c).

10. <u>SEPA Review – Future Phases of Development</u>. At the time of submission of permit applications for future phases of development of the CamWest Property, CamWest shall submit an environmental checklist and any supporting documentation regarding potential impacts of that phase of the development,

except to the extent such impacts have been previously subjected to environmental review and mitigation as set forth in this Agreement, provided that additional environmental review shall be required if there is an increase in the allowable development limitations established in Section 16(c) of this Agreement and as allowed by law.

BOUNDARY LINE ADJUSTMENTS AND BINDING SITE PLANS

- 11. Boundary Line Adjustments. The properties described in Recital A currently contain twelve legal lots. In order to implement the Tri-Party Agreement, it will be necessary for the City and CamWest to complete a boundary line adjustment which creates the parcels to be conveyed to LWTC. In addition, CamWest may need to obtain approval of additional boundary line adjustments to create the parcels needed for implementation of its phasing plan. CamWest shall be responsible for preparation and submission of such boundary line adjustments.
 - a. CamWest has submitted a boundary line adjustment application pursuant to Sections 8.3 and 8.4 of the Pre-Annexation Agreement to create the parcels to be transferred to LWTC pursuant to the Tri-Party Agreement. The City has agreed to complete review of the application so that it may be recorded no later than fourteen (14) days following the expiration of the appeals period for this Development Agreement or the satisfactory resolution of an appeal, if one is filed.
- 12. Binding Site Plan Process. At this time, the City does not have an ordinance establishing a binding site plan process, although the City is authorized to adopt such an ordinance by RCW 58.17.035. The City and CamWest acknowledge that development of the portion of the CamWest Property which is zoned MU-I, including development of the first mixed use and/or commercial building described in Section 8.5 of the Pre-Annexation Agreement and creation of the parcel to be transferred to the City pursuant to the Tri-Party Agreement and the Pre-Annexation Agreement will require approval of a binding site plan. The City agrees to draft and adopt, following procedures set forth in DMC Chapter. 14.08, an ordinance creating a binding site plan process as expeditiously as possible following the execution of this Agreement.

CAMWEST OBLIGATIONS RELATED TO MU-I ZONED AREA

13. First Mixed Use/Commercial Building. Section 8.5 of the Pre-Annexation Agreement requires CamWest to submit a site plan application for one (1) mixed use and/or commercial building as part of a future phase of the CamWest development within five years after approval of this Development Agreement or within one year of the date of issuance of a certificate of occupancy for the first LWTC building on the LWTC property, whichever comes first. The City and CamWest acknowledge that LWTC's schedule for completion of its first building may be modified so that such completion will occur much sooner than anticipated by the City and CamWest at the time the Pre-Annexation Agreement and this Agreement were executed. As a result, the City Planning Director is authorized to

- modify the schedule for development of the mixed use and/or commercial building for good cause as demonstrated by CamWest.
- 14. Timing of Development of Mixed Use/Commercial Buildings. The City and/or CamWest may request that one or more commercial buildings on the CamWest Property be processed outside the sequential steps set out in this Agreement for the purposes of economic development in Duvall. Specifically, one or more commercial buildings may be processed in accordance with City procedures, including the consideration of concurrent review of engineering drawings and building permit plans.
 - a. If CamWest desires to construct any of the mixed use/commercial buildings in the MU-I zone prior to completion of the Phase I SEPA review, CamWest may submit a development application to the City for review and approval, subject to the following terms:
 - i. CamWest shall submit a master development plan for the MU-I area. To ensure that development of the site occurs in an integrated manner, this plan shall take into consideration, to the extent that they have been identified, the future location of the City Property and the LWTC buildings.
 - ii. The development application will be reviewed by the City in accordance with the appropriate permit type set forth in DMC Chapter 14.08.
 - iii. CamWest shall provide SEPA documentation assessing the impacts and potential mitigation measures specific to the proposed development. The requirements for full build out pursuant to Sections 9 and 10 of this Agreement will not apply if the commercial land use application precedes the Phase I application.
 - iv. The City agrees to process the development application as expeditiously as possible, and CamWest agrees to provide information requested by the City in a timely manner.
 - v. Expediting of a commercial building(s) pursuant to this section does not relieve CamWest of the requirements of the Development Agreement for the balance of the CamWest Property.
- 15. Conveyance of Property to City and Improvements to that Parcel. Pursuant to the Tri-Party Agreement, CamWest is obligated to transfer two acres of property (the "City Property") in the area zoned MU-I to the City of Duvall to establish a city facility, unless otherwise agreed by the City. CamWest is also obligated, pursuant to Section 8.2 of the Pre-Annexation Agreement, to provide certain improvements to the City Property. The following rules shall apply to the creation and development of the City Property.
 - a. The general location of the City Property shall be identified on the Master Development Plan submitted with the Phase I development application.

- b. The City and CamWest shall, in good faith, negotiate the precise location of the City Property. CamWest shall, within sixty days after agreement is reached on the location of the City Property, submit an application for a binding site plan approval to create the parcel to be known as the City Property, provided that a binding site plan process is in place.
- c. CamWest shall transfer the City Property to the City within thirty days after approval and recording of the binding site plan creating the City Property, unless the City requests a delay in the transfer.
- d. The City Property shall contain two unencumbered buildable acres as set forth in Section 4.6 of the Pre-Annexation Agreement. The exact size of the City Property may vary by no more than five hundred square feet without the approval of CamWest and the City.
- e. If the City decides to develop the City Property for its own use, the following shall apply:
 - i. The City agrees to submit its proposed plans for development of the City Property to CamWest for review and comment at an early stage in the process of formulating those plans to ensure coordinated development and so that CamWest can provide input on the design. To the extent the plans are subsequently modified by the City, the revised plans shall also be submitted to CamWest for review and comment. The purpose of CamWest's review will be to assure that, to the maximum extent feasible, the City's plans provide for development that is compatible and in keeping with the style of CamWest's adjacent development. While the City will retain ultimate decision making authority regarding the design and development of the City Property, the City and CamWest agree to cooperate in good faith to maximize compatibility. CamWest agrees to review plans as expeditiously as possible.
 - ii. CamWest is responsible for providing a finished grade pad on the City Property, including installed utilities and improved street frontage. CamWest shall provide the finished grade elevation to the City for approval prior to construction drawing approval for the pad.
 - iii. The City and CamWest shall negotiate and determine in good faith, the design and schedule for the completion of the utilities and street frontage improvements once the City's plans for the use of the City Property are finalized. CamWest shall be responsible for obtaining any permits and approvals (e.g., grading, utility) necessary to construct the finished grade pad, utilities and frontage improvements, and may either submit separate applications for such permits or combine them with applications for development of adjacent portions of the CamWest Property, except for off-site

- sewers as provided in Section 8.6 of the Pre-Annexation Agreement.
- iv. CamWest shall, subject to City approval, install utilities serving the City Property, in order to allow coordination with development of other portions of the CamWest Property. If CamWest proceeds with such construction prior to identification of specific plans for the City Property, CamWest shall provide the City with copies of its plans so that the City and CamWest can, in good faith, identify manholes, stub-outs and other improvements in the locations most likely to serve the future development of the City Property.
- v. The City and CamWest agree that CamWest may install stormwater facilities on the City Property to serve the City Property, provided that there is an unencumbered 2 acre site and that such facilities do not interfere with future development of the City Property. Such facilities may be located in parking areas or other areas as allowed by city code which will not interfere with the construction of buildings or other structures on the City Property, as provided herein.
- f. If the City decides to sell the City Property, the following shall apply:
 - i. CamWest shall have a right of first refusal to re-acquire the City Property from the City. In the event that the City decides to sell the City Property, the right of first refusal granted by this Agreement shall require the City to give CamWest written notice of the City's intent to sell the City Property and written notice of any bona fide offer on the City Property which the City is willing to accept. CamWest shall have thirty calendar days after written receipt of notice of a bona fide offer to exercise the right of first refusal on the same terms by giving the City notice of CamWest's intent in writing. If CamWest fails to exercise the right of first refusal, the City shall then be free to accept the bona fide offer. In the event that the City either makes or receives a counteroffer that is materially different than the terms of the original bona fide offer, the City shall notify CamWest of the revised terms of the offer and CamWest shall have fifteen calendar days to either exercise or waive the right of first refusal. In the event that CamWest waives its right of first refusal with regard to a particular bona fide offer and the City does not accept the bona fide offer, CamWest shall retain the right of first refusal regarding any future offer that the City may receive for the City's Property, pursuant to the terms set forth herein.
 - ii. If CamWest does not elect to purchase the City Property, the City agrees to impose a restrictive covenant on the City Property prior to transfer to a third party requiring future owners of the City

Property to comply with the design review and utility approval processes set forth in Section 15(e), above.

TRANSPORTATION IMPROVEMENTS

- 16. <u>Traffic Report</u>. Pursuant to Section 9, CamWest shall submit a traffic report as part of the application for the first phase of development of the CamWest Property. The traffic report shall assume full buildout of the CamWest Property and shall include the following information and be prepared consistent with the Comprehensive Plan.
 - a. Current traffic counts and Level of Service (LOS) calculations for the following offsite intersections on principal arterials, minor arterials, and collector arterials located within the City limits which are likely to realize an impact as the result of traffic from the development of the CamWest development. LOS shall be determined for each movement at signalized intersections and on an intersection averaging basis for unsignalized intersections so that any potential LOS problems and solutions can be identified.
 - i. SR 203 and Big Rock Road
 - ii. SR 203 and NE 143rd Place
 - iii. SR 203 and NE 145th
 - iv. SR 203 and Woodinville-Duvall Road
 - v. SR 203 and Stephens
 - vi. Big Rock Road and 3rd Avenue
 - vii. NE 143rd Place and 3rd Avenue
 - viii. NE 145th and 3rd Avenue
 - ix. 3rd Avenue and NE Kennedy Drive
 - x. 3rd Avenue and Stephens Street
 - xi. SR 203 and NE Kennedy Drive
 - b. An anticipated completion date for development of the CamWest Property of 2017 (hereinafter referred to "build out year") shall be used in the traffic analysis. Background land use growth and pass-through traffic assumptions will be coordinated with the City and shall be consistent with the City's comprehensive plan or updated information.
 - c. Trip generation for full buildout of the CamWest Property assuming development of the property at the following maximum levels:

- i. 244 dwelling units in the area zoned R-12
- ii. 130 dwelling units in the area zoned MU-I
- iii. 140,000 square feet of commercial uses in the area zoned MU-I. The City and CamWest shall meet and agree on the types of commercial uses to be assumed in the trip generation analysis.
- iv. The background traffic generation rates shall assume buildout of the City Property with a 35,000 square foot municipal services building, buildout of the LWTC site in accordance with the Tri-Party Agreement and buildout of the Washington Holdings site, as well as any other significant development anticipated in the vicinity.
- d. An assumption regarding background land uses and/or a growth rate for background traffic will be mutually agreed upon by CamWest and the City of Duvall.
- e. Trip generation for full buildout of the properties immediately west and north of the CamWest Property at levels consistent with existing zoning of those properties. To the extent that applications and/or traffic studies have been submitted and reviewed by the City for those properties, CamWest's traffic study shall rely on the data in those reports as the best available information on trip generation for those sites.
- f. A trip distribution analysis and projected traffic counts and LOS calculations for the intersections identified in Section 16(a) in the build-out year with and without buildout of the CamWest Property.
- g. Following submission of CamWest's traffic study, the City shall have the report peer reviewed by the City's traffic consultants. Any discrepancies between the traffic study and the peer review shall be resolved by mutual agreement of the City and CamWest in a final traffic report.

17. Frontage Improvements.

a. Improvements to 3rd Avenue

- i. In accordance with Section 7.2 of the Pre-Annexation Agreement, CamWest shall be responsible for the design and construction of 268th/3rd Avenue from the terminus of Big Rock Road to NE 143rd Place (3rd Avenue Extension) as approved by the City prior to final plat approval for Phase I of the CamWest development.
- ii. The construction of the 3rd Avenue/Big Rock intersection shall be subject to the provisions set forth in Section 7.2 of the Pre-Annexation Agreement.

- iii. If the first phase of residential development triggers access other than 3rd Avenue (e.g., Big Rock Road or 143rd Place), CamWest shall be responsible for associated frontage improvements as determined in the transportation impact analysis.
- iv. Additional provisions applicable to the CamWest development shall be as follows:
 - Full street improvements in 3rd Avenue shall be made in accordance with the City of Duvall Development Design Standards and Unified Development Regulations, except as specifically agreed to pursuant to Section 17(f). The centerline of the right-of-way improvements shall be the centerline of existing 3rd Avenue, unless agreed to by the City and CamWest due to environmental or right-of-way issues.
 - 2. CamWest shall dedicate sufficient additional right of way, if any is required, on its frontage on 3rd Avenue to accommodate the improvements required to provide its share of the frontage improvements.
 - 3. If the right-of-way required to accommodate full street improvements required for the construction of 3rd Avenue is not available, CamWest shall make a good faith effort to obtain dedication of the additional right-of-way but shall not enter into any agreement to pay for such right-of-way without first advising the City in writing of the potential cost of that right-of-way and allowing the City to decide whether to either allow CamWest to acquire the additional right-of-way (recognizing that CamWest will receive 100% credit against transportation impact fees for such costs as calculated in the City's impact fee program) or allowing the City to identify that portion of the improvements which do fit within the available right-of-way and requiring CamWest to construct only that portion of the improvements. The City shall have thirty days from receipt of CamWest's notice of the potential cost of the right-ofway to make such a decision. If the City does not agree to the cost of acquisition within that period or if CamWest is unable to obtain dedication of the additional right-of-way, CamWest shall be required only to construct that portion of the improvements which will fit within in the existing right-of-way in 3rd Avenue and any additional right-of-way to be dedicated by CamWest on its frontage.
 - 4. If the adjacent property owner west of the CamWest Property does not complete improvements to that portion of 3rd Avenue south of the anticipated alignment of NE 141st

Place, CamWest will complete those improvements to the extent that the City acquires the right-of-way necessary for those improvements. The timing of construction of such improvements and design of those improvements shall be determined by the City based on (a) the availability of right-of-way, (b) the timing and level of development on the CamWest Property, the College Property, and the property west of 3rd Avenue, and (c) the need for such improvements to achieve adequate Levels of Service on streets in the vicinity of the CamWest Property.

- v. CamWest shall be entitled to credits against transportation impact fees related to the improvements to 3rd Avenue as follows:
 - 1. Consistent with applicable Duvall policies and State statutes and case law, to the extent that CamWest designs and constructs the 3rd Avenue, CamWest shall receive one hundred percent (100%) credit against its transportation impact fees for off-site improvements to 3rd Avenue, as calculated in the City's impact fee program. For this purpose, off-site improvements are all street improvements where improvements do not abut the CamWest Property (i.e., all improvements north of the northwest corner or south of the southwest corner of the CamWest Property) and all half-street improvements on the west side of 3rd Avenue opposite CamWest's frontage.
 - 2. CamWest shall receive a forty five percent (45%) credit for the half-street frontage improvements abutting the CamWest Property, as calculated in the City's impact fee program. In the event that the traffic impact analysis requires a full street improvement in lieu of a half-street improvement along the CamWest Property frontage, CamWest shall be entitled to one hundred percent (100%) credit against transportation impact fees owing for its offsite improvements.
 - 3. Eligible costs for credit against transportation impact fees include design, engineering, and construction costs and the costs of right-of-way acquisition and the value of property dedication required for construction of the improvements. CamWest shall maintain accurate records of all costs and payments eligible for such credit and shall segregate costs associated with offsite improvements and costs associated with the half street frontage improvements abutting the CamWest Property. Such records shall be provided to the City in support of an application by CamWest for such transportation impact fee credits. Credits may be applied against transportation impact fees for all phases of the

CamWest development, but in no event shall the total impact fee credits for transportation improvements made pursuant to this Agreement exceed the total amount of transportation impact fees owing by CamWest for its development.

- b. <u>Improvements to Big Rock Road</u>. If the location of Phase I development (e.g., centrally located in the R-12 area) utilizes Big Rock Road east of 3rd Avenue for primary access, the following shall apply:
 - i. CamWest shall, as a condition of Phase 1 development, construct the full street improvements connecting its development to Big Rock Road. Such improvements shall be constructed by CamWest at CamWest's expense and no credit against transportation impact fees will be provided.
 - ii. Further, as a condition of Phase I development, CamWest shall construct frontage, channelization, and other associated improvements along Big Rock Road as determined in the traffic impact analysis. Consistent with applicable Duvall policies and state statutes, CamWest shall receive a full credit against transportation impact fees owing for its off-site improvements. CamWest shall receive a 35% credit for half-street improvements abutting the CamWest Property.
 - iii. Full street improvements for the new road shall be made in accordance with the City of Duvall Development Design Standards and Unified Development Regulations, except as specifically agreed to pursuant to Section 17(f).
 - iv. In determining the appropriate right-of-way width along Big Rock Road, the City will determine the right-of-way needed to accommodate growth to the east of the CamWest Property (e.g., UGA-Reserve area). Buildings shall be set back a sufficient distance to allow for future right-of-way dedications or acquisition without the necessity of removing or relocating buildings. Structures adjacent to Big Rock Road shall be located so that they are consistent with the primary pedestrian street and all other applicable standards in DMC Section 14.34. This requirement shall apply to both the CamWest Property and the City Property.
- c. <u>Secondary Access</u>. City regulations require a secondary access to a development in excess of 100 residential units. At such time that this requirement is triggered, the following shall apply:
 - i. CamWest shall construct a second access to the CamWest development prior to occupancy of any residential units in excess of 100 units. Such access may be to either Big Rock Road or to

NE 143rd Place, provided such second access shall be located east of 3rd Avenue if the first access is on 3rd Avenue.

- ii. In the event that the secondary access is to Big Rock Road, frontage improvements to Big Rock Road shall be required as determined by the Traffic Impact Analysis prepared in accordance with Section 16.
- iii. In the event that the second access is entirely within the CamWest Property, it shall be constructed by CamWest at CamWest's expense and no credit against transportation impact fees will be provided. To the extent that the second access and any required additional mitigation is located offsite, CamWest shall be eligible for a credit against impact fees based upon the City's impact fee program.
- d. Realignment of Intersection of Big Rock Road and 3rd Avenue. The parties anticipate that the alignment of 3rd Avenue south of NE 141st Place and the intersection of 3rd Avenue and Big Rock Road may be modified in conjunction with the development of property west of the CamWest Property. This realignment is the City's preferred alternative for the ultimate design of these improvements. However, whether and when the development of the property west of the CamWest site occurs is unknown. As a result, the parties agree as follows:
 - i. If some or all of the right-of-way for the realignment of 3rd Avenue to Big Rock Road is available at the time that CamWest is prepared to proceed with the construction of 3rd Avenue, CamWest shall improve the available right of way in that portion of 3rd Avenue from NE 143rd Place to Big Rock Road as part of that phase of development.
 - 1. Full street improvements in 3rd Avenue shall be made in accordance with the City of Duvall Development Design Standards and Unified Development Regulations, except as specifically provided herein or as specifically agreed to pursuant to Section 17(f)
 - 2. To the extent possible, the City and CamWest shall endeavor to coordinate construction of the improvements in 3rd Avenue with the owners of the property adjacent to the right of way for realigned 3rd Avenue.
 - 3. CamWest shall receive credits for the cost of any improvements constructed pursuant to this subsection, as set forth in Section 7.2.5 of the Pre-Annexation Agreement.
 - ii. If the right-of-way for the realignment of 3rd Avenue from NE 141st Place to Big Rock Road is not available at the time that CamWest constructs 3rd Avenue, CamWest shall make a good faith

effort to obtain dedication of the required right-of-way but shall not enter into any agreement to pay for such right-of-way without first advising the City in writing of the potential cost of that rightof-way and allowing the City to decide whether to either allow CamWest to acquire the additional right-of-way (recognizing that CamWest will receive 100% credit against transportation impact fees for such costs as calculated in the City's impact fee program) or allowing the City to identify that portion of the improvements which do fit within the available right-of-way and requiring CamWest to construct only that portion of the improvements. The City shall have thirty days from receipt of CamWest's notice of the potential cost of the right-of-way to make such a decision. If the City does not agree to the cost of acquisition within that period or if CamWest is unable to obtain dedication of the additional rightof-way, CamWest shall be required only to construct that portion of the improvements which will fit within in the available right-ofway in 3rd Avenue.

- e. <u>Improvements to internal roads</u>, alleys and access tracts. CamWest shall bear the full cost of the improvement of all internal roads, alleys and access tracts in the CamWest Property. The improvements to these roads, alleys and access tracts shall be constructed in accordance with the City of Duvall Development Design Standards and Unified Development Regulations, except as specifically agreed to pursuant to Section 17(f).
- f. Required Right-of-Way. Right-of-way shall be provided in accordance with the Development Design Standards. Reductions to the width of the right-of way may be considered by the City based upon criteria set forth in these standards. Reductions allowed under the residential and commercial access street standards shall also apply to the arterial road standards.
- g. Connections to Glencairn Neighborhood. The City and CamWest have agreed that the second access road required by Section 17(c) shall not be located so as to enter the Glencairn neighborhood northeast of the CamWest Property. The City shall determine, in its own discretion, whether such a connection will be required as an additional access/neighborhood circulation route. CamWest will abide the City's decision on this issue. The City will not require the mid-block pedestrian access along the border with the Glencairn neighborhood which would otherwise be required by DMC Chapter 14.34 due to existing conditions which prevent such an access from connecting to the public streets in the Glencairn neighborhood.
- h. <u>Guest Parking</u>. Guest parking for all phases of the CamWest development will be provided as required by applicable City Code requirements, unless a specific variance from such standards is granted. On-street parking may be used for guest parking as allowed by City Code.

i. <u>LWTC dedication of right-of-way</u>. Nothing in this Agreement is intended to modify the provisions of the Implementing Agreement regarding the dedication of right-of-way by LWTC.

SENSITIVE AREAS

18. Sensitive Areas Studies and Mitigation.

- a. Per Section 4.4 of the Pre-Annexation Agreement, peer review of sensitive area studies, including but not limited to wetland delineations and other environmental documents, shall be required in conjunction with the review and approval of the Development Agreement. CamWest has submitted a preliminary sensitive areas report pursuant to the standards of DMC Chapter 14.42
- b. The sensitive areas studies shall also evaluate any on-site watercourses on the site or adjacent to the site in accordance with DMC Chapter 14.42.
- c. The City shall have the preliminary study peer reviewed by the City's consultants. Any discrepancies between the preliminary study and the peer review shall be resolved by mutual agreement of the City and CamWest in a final sensitive area report. The final report shall serve as the basis for all SEPA review of sensitive area impacts of development of the CamWest Property, except as may be modified in accordance with Section 9 of this Agreement. Additional sensitive area reports may be required to evaluate site-specific aspects of the CamWest development which may impact sensitive areas, buffer reduction/averaging plans and proposed sensitive area mitigation measures.
- 19. <u>Sensitive Area Alterations and Mitigations</u>. CamWest may propose sensitive alterations, buffer reductions, buffer averaging and to use other mitigation techniques in accordance with the provisions of DMC Chapter 14.42. Requests for use of such techniques shall be supported by mitigation plans as required by DMC Chapter 14.42.

STORMWATER, UTILITIES AND LOW IMPACT DEVELOPMENT

20. Stormwater System Design.

- a. CamWest shall provide for treatment and detention of stormwater for the CamWest Property and the City pad, consistent with applicable City regulations and as set forth in Section 15 of this Agreement.
- b. The stormwater control system for all phases of the CamWest development, the development of the City Property (and the LWTC Property) shall be based on the current approved City stormwater regulations (the 2005 King County Stormwater Manual and Duvall Development Design Standards Chapter 4).

- c. The preliminary drainage plan shall include provisions for sufficient system capacity to accommodate full buildout of the CamWest Property and the City Property.
- d. The parties agree to use their best efforts to develop a combined stormwater system serving both the CamWest and City properties.
- e. CamWest agrees to work with the College and the property owners to the east, as set forth in Sections 4.6, 6.2, and 6.3 of the Pre-Annexation Agreement, to the extent reasonably feasible to jointly address stormwater requirements, provided that CamWest, the College, and the property owners to the east (and their successors and assigns) shall each be solely responsible for the cost of complying with such requirements for development on each party's property.

21. Low Impact Development, Grading, and Sanitary Sewer

- a. Stormwater. CamWest shall, pursuant to Section 4.5 of the Pre-Annexation Agreement, utilize low impact development techniques and best management practices. To the extent soils and other physical conditions allow the use of viable and reasonably feasible low impact development techniques and best management practices, such techniques and practices shall be incorporated into the design and construction of the drainage plan.
- b. Energy Efficient Construction. CamWest shall, pursuant to the Pre-Annexation Agreement, include energy efficient construction techniques in the buildings in the CamWest development. Because the manner in which energy efficient systems and processes can be applied is dependent on the design of individual buildings, the City and CamWest agree to work cooperatively to achieve this objective during the building permit process.
- c. <u>Site Grading</u>. Site grading shall be conducted pursuant to the City of Duvall Development Design Standards and Unified Development Regulations.
- d. <u>Sanitary Sewer</u>. CamWest shall connect sewer from the intersection of 275th Avenue/Big Rock Road and the intersection of 3rd Avenue/Big Rock Road, or from the western terminus of the sewer line installed by others in accordance with the requirements of Section 8.6 of the Pre-Annexation Agreement.

AFFORDABLE HOUSING

22. CamWest agrees to develop a minimum of five percent (5%) of housing units on the CamWest Property to families with incomes at or below eighty percent (80%) of the King County median income, subject to Sections 24 to 26.

- 23. CamWest agrees to provide a minimum of five percent (5%) of housing units at one hundred percent (100%) of median income on the CamWest Property, subject to Sections 24 to 26.
- 24. The following requirements shall apply to the housing units provided pursuant to Sections Section 22 or Section 23:
 - a. Such housing units may be a mix of rental and "for sale" units. These housing units may be either scattered throughout the CamWest Development or clustered at CamWest's discretion in order to allow CamWest the flexibility to design and construct the units in a manner which maximizes their affordability, provided approximately one half of the units will be in the area zoned R-12 and approximately one half in the area zoned MU-I.
 - b. At least 5% of the units in the first phase of the development of the CamWest Property shall be units which meet the requirements of either Section 22 or Section 23. With each subsequent phase of its development, CamWest shall construct enough units which meet the requirements of either Section 22 or Section 23 so that at least 5% of the total number of units actually constructed on the CamWest Property meet those requirements. CamWest shall also, with each phase of development, update the Phasing Plan required by Section 6 to demonstrate that at full buildout, the requirements of Sections Section 22 or Section 23 will have been met.
 - c. CamWest shall be entitled to credits for each affordable unit constructed pursuant to Section 22 in an amount equal to ninety percent (90%) of each of the following charges/fees in place at the time the charges/fees are paid: the sewer GFC charge, the water capital improvement charge, the storm drain area charge, the sewer equalization fee and building permit fees. To the extent the charge/fee is not assessed on a unit basis, the charge/fee shall be prorated as necessary to provide the ninety percent (90%) credit. These credits shall be computed separately from and in addition to any credits to CamWest pursuant to Sections 4.1, 7.2 and 7.4 of the Pre-Annexation Agreement. To the extent applicable, CamWest and its successors and assigns shall be entitled to any applicable property tax waivers for the affordable housing consistent with state law for the affordable units.
 - d. CamWest shall not receive any city charge and/or fee credits for units constructed pursuant to Section 23 except for those impact fee credits set out in Sections 4.1, 7.2 and 7.4 of the Pre-Annexation Agreement. To the extent applicable, CamWest and its successors and assigns shall be entitled to any applicable property tax waivers for the affordable housing consistent with state law for the affordable units.
- 25. For purposes of Sections 22 to 24, "King County median income" means the income level for King County as defined in the annual Housing Assistance Plan

issued by the King County Department of Community and Human Services. Specific median income levels vary according to household size. In the event that King County stops issuing the Housing Assistance Plan, the City and CamWest will mutually select an alternative standard for determining "median income."

26. The City and CamWest shall, prior to the sale or rental of any affordable units constructed pursuant to Sections 22 to 24, develop a mutually acceptable system for assuring that such units are sold or rented as affordable units for at least twenty years after occupancy.

PARKS, RECREATION AND PEDESTRIAN FACILITIES

- 27. <u>Parks and Recreation</u>. CamWest will provide a minimum of 2.9 acres of public useable park and open space, subject to the following:
 - a. CamWest may provide a single park that is a minimum of 2.9 acres in size. Alternately, CamWest may provide multiple parks; however each park shall be minimum size of one (1) acre.
 - b. CamWest may, consistent with Section 4.2 of the Pre-Annexation Agreement, apply the 2.9 acre park/open space area to the 10% open space requirement set forth in DMC 14.34.
 - c. If multiple park sites are provided, there shall be pedestrian and visual connectivity between sites.
 - d. Sidewalks shall not be considered as pedestrian connections between parks.
 - e. The first phase park space shall be situated so that it serves as a focal point and organizing element for the LWTC campus, the commercial/mixed-use area, and residential neighborhoods. The City shall approve the location of this park in conjunction with the Phase I development application. If multiple park sites are proposed, they shall be identified on the master development plan, and approved with the future phases of development. All parks shall be constructed during the appropriate phase of development.
 - f. CamWest shall receive one hundred percent (100%) credit for park improvements against park impact fees for improvements to the park, including but not limited to, top soil, plantings, sprinklers, play equipment, courts, and picnic areas. No park impact fee credits shall be granted for design costs, land costs, grading, stubbing of utilities to the park site(s), required perimeter road improvements, or for improvements on park/open space areas in excess of 2.9 acres.
 - g. The park(s)/open space will provide active and passive recreational opportunities and uses, including playgrounds or children's play structures; playfields, including courts; picnic and other group activity

areas; and areas for passive or any similar uses. CamWest agrees to consult and work with the City on the design, use and improvements to the park areas in conjunction with the applicable phase of development. The park(s) shall be reviewed and approved in accordance with city standards.

28. Pedestrian Connectivity.

- a. All phases of the CamWest development shall include provisions for pedestrian connections consistent with DMC Chapter 14.34 and the City's Development Design Standards to adjacent portions of the CamWest Property and to adjacent properties, including but not limited to, the LWTC, Washington Holdings, and City Properties, unless otherwise required by the City or where such access is not feasible due to existing development of adjacent property (i.e., adjacent to the existing Glencairn neighborhood).
- b. The design of the pedestrian system shall include pedestrian friendly design and amenities such as benches, bike racks, well marked pedestrian crossings, way finding elements (e.g., signage), and lighting. The pedestrian system shall be designed to encourage walking between the new and existing residential neighborhoods, and activity areas such as parks, the college, and future commercial/mixed uses on the CamWest Properties, and properties to the west.
- c. To the extent that adjacent phases or properties are currently undeveloped, temporary barricades shall be installed at the ends of the pedestrian connections in order to discourage unauthorized or unsafe access onto such other properties.

MISCELLANEOUS

- 29. In accordance with state law, the City shall have the authority to impose new or different regulations to the extent required by a serious threat to public health and safety.
- 30. Construction. The City and CamWest shall cooperate in good faith and in a spirit of cooperation and fair dealing in the interpretation and application of the terms of this Agreement. The requirements of this Agreement are intended to complement and expand on the requirements in the City's Uniform Development Regulations ("UDR") and Development Design Standards ("DDS"). To the extent that there is any conflict between this Agreement, the UDR, and the DDS, the City's regulations shall control.
- 31. <u>Parties and Authority</u>. The signatories to this Agreement represent that they have the full authority of their respective entities to commit to all of the terms of this Agreement, to perform the obligations hereunder and to execute the same. A complete copy of this Agreement shall be recorded and a copy kept at Duvall City Hall and made available to anyone requesting review or a copy.

- 32. <u>Voluntary Agreement</u>. The Parties intend and acknowledge that this Agreement is a voluntary contract binding upon the Parties hereto, as well as their successors and assigns.
- 33. Amendment of Agreement. This Agreement shall only be amended in writing, signed by all Parties to this initial Agreement and only after approval by the Duvall City Council.
- 34. <u>Applicable Law</u>. This Agreement is entered into under the laws of the State of Washington, and the Parties intend that Washington state law shall apply to interpretation of this Agreement.
- 35. Dispute Resolution. In the event of any dispute between the City and CamWest arising from this Agreement, the parties will first attempt to resolve the dispute informally. In the event of a dispute that cannot be resolved, both parties shall agree to mediation. In the event that mediation cannot resolve the dispute, the matter shall be submitted to binding arbitration. Either party may invoke arbitration by providing the other party with written notice setting forth the party's claim in detail and explaining the relief requested. The parties shall attempt to agree on a mutually acceptable mediator during the next thirty days. If agreement is not reached within such time period, either party may request that the Presiding Judge of the King County Superior Court appoint an arbitrator. The arbitration shall be conducted pursuant to the Rules of the American Arbitration Association, regardless of whether the arbitrator is a member of that Association. The arbitrator's fee shall be divided equally between the parties, provided the arbitrator shall award costs, including the arbitrator's fee, to the prevailing party if the arbitrator determines that a party has pursued claims in bad faith or claims which are frivolous.
- 36. <u>Venue</u>. Venue and jurisdiction to enforce all obligations under this Agreement shall lie in the King County Superior Court.
- 37. Attorneys' Fees and Costs. In any arbitration or judicial action to enforce or determine a party's rights under this Agreement, the prevailing party (or the substantially prevailing party, if no one party prevails entirely) shall be entitled to reasonable attorneys' fees and costs, including fees and costs incurred in the appeal of any ruling of a lower court. In the event of litigation or arbitration between the parties hereto, declaratory or otherwise, in connection with this Agreement, the prevailing party shall recover its reasonable costs and attorneys' fees actually incurred, including for appeals, which shall be determined and fixed by the court or arbitrator as part of the judgment, provided the parties hereby agree that the amounts actually charged to the parties by their respective counsel shall be presumed to be reasonable by any court or arbitrator and shall not be reduced or increased unless the court or arbitrator specifically finds that the rates for such legal work were unreasonable or that some portion of the legal work was unnecessary or performed without justification.
- 38. <u>Severability</u>. If any term or provision of this Agreement, or its applicability to a particular situation, is found to be invalid, void or unenforceable by a court of

competent jurisdiction, then the remaining provisions of this Agreement shall continue in full force and effect unless and to the extent the remaining provisions, if implemented, would be inconsistent with or otherwise fail to carry out the mutual intent of the Parties.

- 39. <u>Mutual Drafting and Construction</u>. The Parties agree that both Parties participated fully in the negotiation and drafting of this Agreement and the rules of construction of ambiguities against the drafter shall not apply to either Party.
- 40. No Third Party Beneficiaries. Except as set forth explicitly herein, nothing in this Agreement is intended to create any third party beneficiary relationships.
- 41. No Joint Venture. Nothing in this Agreement is intended to create any type of joint venture or partner relationship between the Parties as to the CamWest Property or its development.
- 42. <u>Successors and Assigns</u>. The terms of this Agreement shall be binding upon and inure to the benefit of the successor and assigns of the Parties hereto.
- 43. The terms and conditions of this Agreement, including any amendments thereto, are binding upon the heirs, successors, and assigns of the CamWest Development, Inc., CamWest Duvall, LLC, and the City of Duvall, provided that the Agreement shall not apply to any property which is not acquired by CamWest Development, Inc. and/or CamWest Duvall, LLC.
- 44. Counterparts. This Agreement may be executed in counterparts.

Dated as of the day and year first above written.

CITY OF DUVALL	Attested by:
By	Jodes Schwin
Will Ibershof, Mayor	Jodee Schwinn, City Clerk

Approved as to form:

Bruce Disend, City Attorney

Date: <u>Dec. V6</u>, 2007.

CAMWEST DEVELOPMENT, INC. a

Washington corporation

Eric Campbell, President

Date: / · 8 · 2008 , 2007.

CAMWEST DUVALL LLC, a

Washington limited liability company

Eric Campbell, President of CamWest
Development, Inc., its Managing Member

Its Tresident

Date: \/8\|>p\&, 2007.

STATE OF WASHINGTON)

ss.

COUNTY OF KING

I hereby certify that I know or have satisfactory evidence that Will Ibershof is the Mayor of the City of Duvall, a Washington municipal corporation, and is the person who appeared before me, and acknowledged that he signed this instrument on behalf of such City, on oath stated that he was authorized to execute the instrument and acknowledged it as the free and voluntary act of such City for the uses and purposes mentioned in this instrument.

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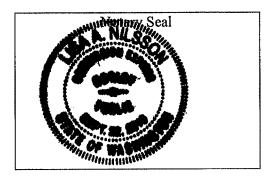
Notary Public
Residing at
My appointment expires:

STATE OF WASHINGTON)

ss
COUNTY OF KING)

I hereby certify that I know or have satisfactory evidence that Eric Campbell is the President of CamWest Development, Inc, a Washington corporation, the managing member of CamWest Duvall LLC, a Washington limited liability company, and is person who appeared before me, and acknowledged that he signed this instrument on behalf of such corporation and company, on oath stated that he was authorized to execute the instrument and acknowledged it as the free and voluntary act of the corporation and the company for the uses and purposes mentioned in this instrument.

DATED: January 8, 2008.



Lisa a Nilsson (Print Name)

Notary Public

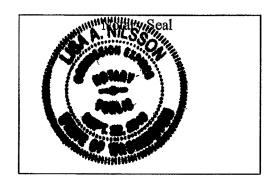
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My appointment expires: 9 | 2010

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

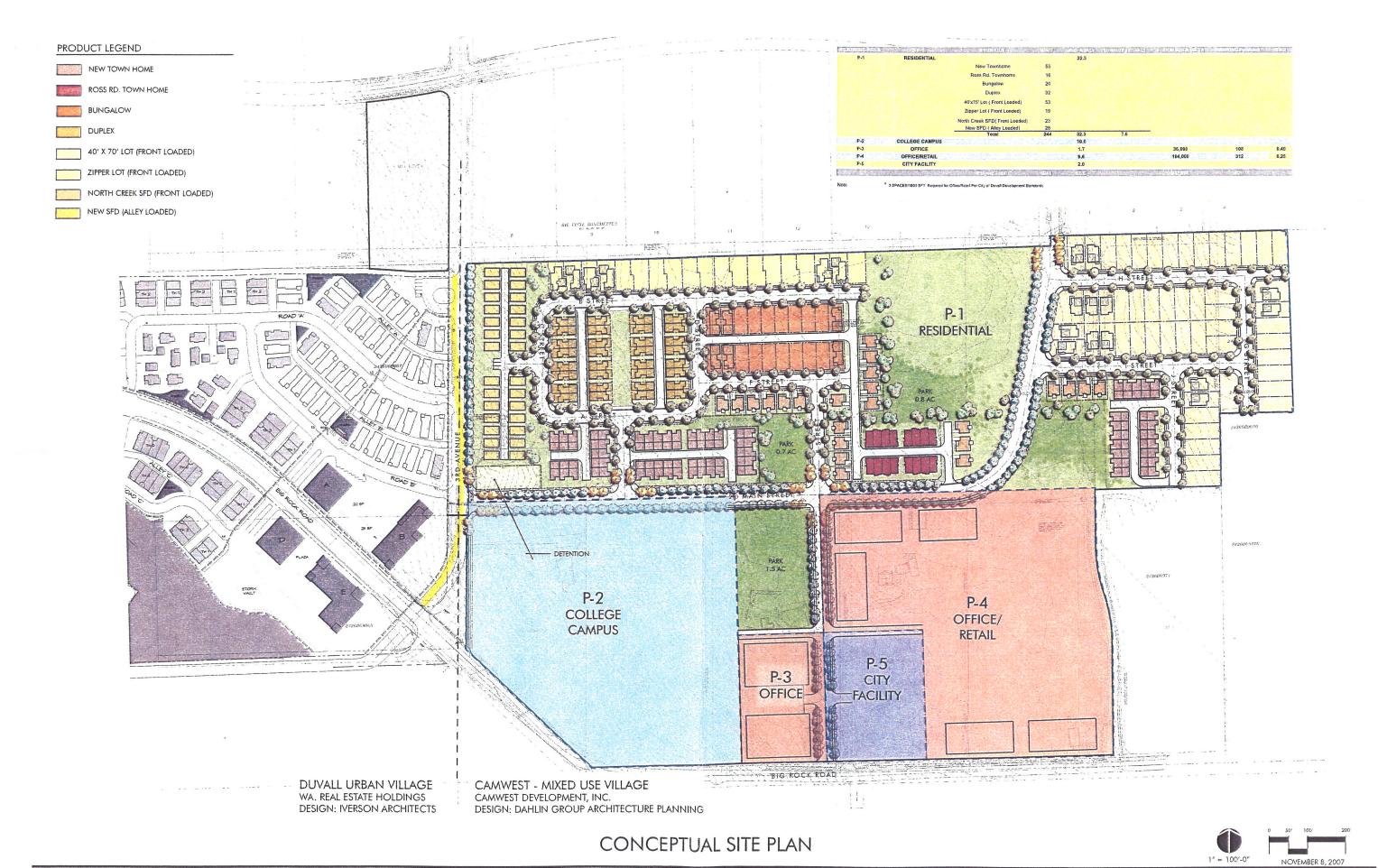
I hereby certify that I know or have satisfactory evidence that Eric Campbell is the President of CamWest Development, Inc, a Washington corporation, and is person who appeared before me, and acknowledged that he signed this instrument on behalf of such corporation, on oath stated that he was authorized to execute the instrument and acknowledged it as the free and voluntary act of such corporation for the uses and purposes mentioned in this instrument.

DATED: January 8, 2008.



Notary Public
Residing at Kickland
My appointment expires: 912210

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